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C O N F I D E N T I A L SECTION 01 OF 03 ISLAMABAD 004024

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SUBJECT: PAKISTAN -- PRESIDENTIAL ELECTION COUNTDOWN

REF: ISLAMABAD 3779

Classified By: Anne W. Patterson, Reasons 1.4 (b), (d)

11. (C) Summary. The next few days likely will determine whether or how President Musharraf can secure his re-election, and last-minute maneuvering is in full swing. Musharraf unquestionably has the simple majority of votes he needs in the current National and Provincial Assemblies; however, the Supreme Court may be the wild card as it prepares to rule on a bundle of pending cases challenging the President's candidacy. Although Musharraf's advisors are increasingly optimistic about a positive verdict, the ruling Pakistan Muslim League (PML) party is nonetheless preparing fallback options. Musharraf's lead counsel announced in Court today that Musharraf would take off his uniform just before he renews his oath of office.

12. (C) Into this mix, the Election Commission announced on September 16 a surprise change in the rules governing candidate eligibility that would solve most of Musharraf's eligibility problems, but the court's decision would override any commission rules. We expect several days of drama before the issue is settled. End Summary.

13. (C) Septel describes the presidential election process in detail. As currently planned, the election must occur between September 15 and October 15. Winning requires only a simple majority vote in an electoral college composed of the Senate, National and Provincial Assemblies. The Election Commissioner oversees the process. RefTel outlines the pending cases against Musharraf, which are primarily challenges against: (1) his right to hold the two concurrent offices of President and Chief of Army Staff; and (2) his right to ignore a two-year revolving door rule and run for president if he takes off his uniform.

SCENARIO A: COURT RULES FOR MUSHARRAF

14. (C) Even without Benazir Bhutto's PPP and other opposition parties, Musharraf has the simple majority he needs to win in the electoral college, but a group of opposition parties is threatening to undermine the credibility of the election by resigning from the assemblies in protest. This would detract from Musharraf's victory. According to PML President Chaudhry Shujaat Hussain, he and Musharraf's other advisors are working to convince Pakistan People's Party leader Benazir Bhutto to abstain but not walk out of the assemblies.

15. (C) Shujaat said the fundamental deal with Bhutto is an agreement to lift the pending corruption cases against her in exchange for her pledge that the PPP will not walk out. If all goes according to the government's plan, Musharraf will be re-elected and then take off his uniform before being sworn in again as President. PML Secretary General Mushahid Hussain told the press September 16 that the President would take off his uniform before November 15 and Musharraf's Attorney Sharifuiddin Pirzada confirmed this in Court September 18.

16. (C) In the first publicized meeting since the Chief Justice's reinstatement, Presidential Chief of Staff Lieutenant General (ret) Hamid Javed and Chief Justice Iftikhar Chaudhry met September 14. While the meeting was ostensibly held to discuss judicial vacancies that the Presidency quickly filled after the meeting, most analysts assume that the two discussed a way forward on cases challenging the President. Some Musharraf advisors are optimistic about a favorable court verdict because they interpret a number of recent actions as positive signs of a more amenable Court:
-- the Chief Justice recused himself from leading the court hearing on the cases challenging Musharraf;
-- the Court rejected pleas to expand the bench that is hearing the bundled cases; and,
-- the Court did not issue a much-expected contempt citation over last week's deportation of Nawaz Sharif.
(Note: The fizzle of promised street demonstrations on behalf of Nawaz also calmed ruling party nerves. End Note.)

17. (C) Musharraf advisors credit this change in attitude to
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their successful assuagement of the Chief Justice's ego by firing the Law Minister officially credited with launching the case against the Chief Justice, transferring the Islamabad Police Inspector General blamed officially for roughing up the Chief Justice, and having Javed publicly pay homage to the Chief Justice.

18. (C) Attorney General (AG) Malik Qayyum echoed this positive outlook to A/DCM on September 18. The opposition, he said, would complete arguments on the presidential cases on September 19; the GOP would make its case on September 20, and the Court would likely decide on September 21. AG Qayyum said the government was confident of the votes of eight of nine judges on the panel. He also believed the Chief Justice realized he had over-reached in terms of judicial activism against the President.

SCENARIO B: COURT RULES AGAINST MUSHARRAF OR DELAYS DECISION

19. (C) Not all Musharraf's advisors share this optimism. Shujaat told A/DCM on September 15 that he is worried that the Court will either not act positively or will delay a decision and keep the proverbial sword of Damocles hanging over Musharraf's head. Shujaat is preparing a complicated series of fallback options if the decision is negative, including:

-- Dissolve the National Assembly and thus postpone the presidential election until after new national and provincial assemblies are elected. This would be legal and would buy Musharraf time to work out the proposed alliance with Bhutto. However, it would not necessarily preclude Court action and, if invoked after a negative verdict, would subject Musharraf to significant criticism.

-- A repeat of the court shuffle Musharraf implemented in 1999 when he demanded the Supreme Court bench swear an oath of support. Those who refused were replaced with a more pliable group. The current Chief Justice was at the time one of the pliable group. Given Musharraf's failure to fire the

Chief Justice, this is not a viable option.

-- Some sort of extra-judicial action to shut down the courts. Short of martial law, there is no way to stop the judiciary, and Musharraf has consistently insisted that he will not invoke martial law. However, it is unlikely the government would attempt something just short martial law given the domestic and international reaction to the state of emergency.

Enter the Election Commission

¶10. (C) The Election Commission announced September 16 that they had amended the Presidential Election Rules of 1988. The amendment opened the door for civil servants to run for president by removing the power of the Chief Election Commissioner to disqualify nominees on the basis of Article 63 of the Constitution. Article 63 bars civil servants from running for office until they have been out of government service for at least two years; Article 63 is the basis for most of the pending court challenges against Musharraf.

¶12. (C) Election Commission Secretary Kanwar Dilshad told PolOff on September 18 the Commission had amended its rules to conform with previous Supreme Court decisions allowing civil servants to contest presidential elections. If the Court reversed its position, he said, then the Election Commission would act accordingly.

¶13. (C) Attorney General Qayyum claimed that he had instructed the Election Commission "weeks" ago to revise its rules to coincide with Supreme Court rulings, but not single out the provision on candidate disqualifications. The Commissioner changed only this one provision about ten days ago, according to Qayyum, and it was unfortunately leaked to the press. Qayyum indicated the Election Commission's actions were unimportant because they would be subject ultimately to the courts.

¶14. (C) Comment. There is increasing optimism here among

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Musharraf's supporters that the court battle is almost over. The government is banking on the fact that they have assuaged the Chief Justice's personal vanity and that he realizes that he has over-reached. While the Election Commission's last-minute rule revision would not trump a contrary Supreme Court decision, it was designed to provide a boost to Musharraf supporters. It may not have, since it prompted domestic and international criticism. The Court could still deliver a nasty surprise to Musharraf. End Comment.
PATTERSON